



Rules and Ancillary Document Review Checklist
(This form must be filled out electronically.)

All responses should be in **bold** format.

Document Reviewed (include title): **WAC 458-20-158— Florists and Nurserymen**

Date last adopted: **July 1, 1970**

Reviewer: **Greg Potegal**

Date review completed: **March 22, 2000**

Is this document being reviewed at this time because of a taxpayer or business association request? (If “YES”, provide the name of the taxpayer/business association and a brief explanation of the issues raised in the request). **YES** ☐ **NO** ☒

Type an “x” in the column that most correctly answers the question, and provide clear, concise, and complete explanations where needed.

1. Explain the goal(s) and purpose(s) of the document: This rule explains the application of business and occupation (B&O) and retail sales taxes to transactions involving florists and nurserymen.

2. Need:

YES	NO	
X		Is the document necessary to comply with the statutes that authorize it? (E.g., Is it necessary to comply with or clarify the application of the statutes that are being implemented? Does it provide detailed information not found in the statutes?)
	X	Is the document obsolete to a degree that the information it provides is of so little value that the document warrants repeal or revision?
X		Have the laws changed so that the document should be revised or repealed? (If the response is “yes” that the document should be repealed, explain and identify the statutes the rule implemented, and skip to Section 10.)
X		Is the document necessary to protect or safeguard the health, welfare (budget levels necessary to provide services to the citizens of the state of Washington), or safety of Washington’s citizens? (If the response is “no”, the recommendation must be to repeal the document.)

Please explain. **The rule states that the wholesale sale of Christmas trees is subject to business and occupation tax. Since the rule was last amended, the law has been changed to provide that plantation Christmas trees are agricultural products whose sale is exempt of tax.**

3. Related ancillary documents, court decisions, BTA decisions, and WTDs: Complete

Subsection (a) only if reviewing a rule. Subsection (b) should be completed only if the subject of



the review is an ancillary document. Excise Tax Advisories (ETAs), Property Tax Bulletins (PTBs) and Audit Directives (ADs) are considered ancillary documents.

(a)

YES	NO	
	X	Are there any ancillary documents that should be incorporated into this rule? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any ancillary documents that should be repealed because the information is currently included in this or another rule, or the information is incorrect or not needed? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any Board of Tax Appeal (BTA) decisions, court decisions, or Attorney Generals Opinions (AGOs) that provide information that should be incorporated into this rule?
	X	Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the rule?

(b)

YES	NO	
		Should this ancillary document be incorporated into a rule?
		Are there any Board of Tax Appeal (BTA) decisions, court decisions, or Attorney Generals Opinions (AGOs) that affects the information now provided in this document?
		Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the document?

If the answer is “yes” to any of the questions in (a) or (b) above, identify the pertinent document(s) and provide a brief summary of the information that should be incorporated into the document.

4. Clarity and Effectiveness:

YES	NO	
X		Is the document written and organized in a clear and concise manner?
X		Are citations to other rules, laws, or other authority accurate? (If no, identify the incorrect citation below and provide the correct citation.)
X		Is the document providing the result(s) that it was originally designed to achieve? (E.g., does it reduce the need for taxpayers to search multiple rules or statutes to determine their tax-reporting responsibilities, help ensure that the tax law and/or exemptions are consistently applied?)
X		Do changes in industry practices warrant repealing or revising this document?
	X	Do any administrative changes within the Department warrant repealing or revising this document?

Please explain. **The rule is fairly clear, but is written in a stilted style. For example:**

- The use of “nurserymen”, “he” and “his” are not gender neutral. “Nurserymen” seems very old fashioned and should be replaced by “nursery”.
- “Green house” is one word, “greenhouse”.



The rule is providing the intended results and reduces the need for persons in these industries to search multiple rules or multiple statutes to determine their taxability. It provides generally correct instructions, but does need some updating. The following changes should be made:

- The rule refers only to the Florist's Telegraphic Delivery Association. There are several other organizations that provide the same type of service.
- The rule refers to telegraphic instructions. This can be updated to reflect current practice involving computer technology.
- The rule does not address the use tax.

5. Intent and Statutory Authority:

YES	NO	
X		Does the Department have sufficient authority to adopt this document? (Cite the statutory authority in the explanation below.)
X		Is the document consistent with the legislative intent of the statutes that authorize it? (I.e., is the information provided in the document consistent with the statute(s) that it was designed to implement ?) If "no", identify the specific statute and explain below. List all statutes being implemented in Section 9, below.)
	X	Is there a need to recommend legislative changes to the statutes being implemented by this document?

Please explain. **RCW 82.32.300 authorizes the Department of Revenue to make and publish rules.**

6. Coordination: Agencies should consult with and coordinate with other governmental entities that have similar regulatory requirements when it is likely that coordination can reduce duplication and inconsistency.

YES	NO	
	X	Could consultation and coordination with other governmental entities and/or state agencies eliminate or reduce duplication and inconsistency?

Please explain. **The Department of Revenue has sole responsibility for administering the excise taxes that apply to florists and nurseries.**



7. Cost: When responding, consider only the costs imposed by the document being reviewed and not by the statute.

YES	NO	
	X	Have the qualitative and quantitative benefits of the document been considered in relation to its costs? (Answer “yes” only if a Cost Benefit Analysis was completed when the rule was last adopted or revised.)

Please explain. **This is an interpretive rule that imposes no new or additional administrative burdens on businesses that are not imposed by law.**

8. Fairness: When responding, consider only the impacts imposed by the document being reviewed and not by the statute.

YES	NO	
X		Does the document result in equitable treatment of those required to comply with it?
	X	Should it be modified to eliminate or minimize any disproportionate impacts on the regulated community?
	X	Should the document be strengthened to provide additional protection to correct any disproportionate impact on any particular segment of the regulated community?

Please explain. **The rule affects all similarly situated taxpayers in the same fashion.**

9. LISTING OF DOCUMENTS REVIEWED: (Use “bullets” with any lists, and include documents discussed above. Citations to statutes, ancillary documents, and similar documents should include titles. Citations to Attorneys General Opinions (AGOs) and court, Board of Tax Appeals (BTA), and Appeals Division (WTD) decisions should be followed by a brief description (i.e., a phrase or sentence) of the pertinent issue(s).)

Statute(s) Implemented: **To the extent the following apply to florists and nurseries:**

- **RCW 82.04.213—Agricultural product-Farmer**
- **RCW 82.04.220—Business and occupation tax imposed**
- **RCW 82.04.250—Tax on retailers**
- **RCW 82.04.270—Tax on wholesalers**
- **RCW 82.04.330—Exemptions-Farmers-Agriculture**
- **RCW 82.08.020—Tax imposed-Retail sales-Retail car rental**

Ancillary Documents (i.e., ETAs, PTBs, and ADs):

Court Decisions:

Board of Tax Appeals Decisions (BTAs):

- ***Burton v. Department of Revenue*, BTA Docket No. 29485 (1985). Eligibility of Christmas tree farms for the agricultural exemption.**



Administrative Decisions (e.g., WTDs):

- **4 WTD 17 (1987). Taxability of transfer charges by florists.**

Attorney General's Opinions (AGOs):

Other Documents (e.g., special notices or Tax Topic articles, statutes or regulations administered by other agencies or government entities, statutes, rules, or other documents that were reviewed but were not specifically relevant to the subject matter of the document being reviewed):

10. Review Recommendation:

☒ Amend

☐ Repeal

☐ Leave as is

☐ Begin the rule-making process for possible revision. (Applies only when the Department has received a petition to revise a rule.)

☐ Incorporate ancillary document into a new or existing rule. (Subject of this review must be an ancillary document and not a rule.)

Explanation of recommendation: (If recommending an amendment of an existing rule, provide only a brief summary of the changes you've identified/recommended earlier in this review document.) **The rule needs to be amended because it incorrectly provides that wholesale sales of Christmas trees by the grower are taxable. In addition, technological changes in the industry should be incorporated into the rule. Stylistic improvements, including gender neutrality, should be made.**

11. Manager action: Date: _____

☐ Reviewed recommendation ☐ Accepted recommendation

☐ Returned for further action

Comments: